



General Assembly

February Session, 2008

***Raised Bill No. 417***

LCO No. 1964

\*01964\_\_\_\_\_HS\_\*

Referred to Committee on Human Services

Introduced by:  
(HS )

***AN ACT CONCERNING THE ESTABLISHMENT OF THE FATALITY  
REVIEW BOARD.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective from passage*) (a) There is established a  
2       Fatality Review Board for Persons with Disabilities. The fatality review  
3       board shall investigate the circumstances surrounding the untimely  
4       deaths of persons with disabilities, including the untimely deaths of all  
5       clients under the care of the Department of Developmental Services,  
6       that, in the opinion of the director of the Office of Protection and  
7       Advocacy for Persons with Disabilities, warrant a full and  
8       independent investigation. In addition, the fatality review board may  
9       investigate the circumstances surrounding deaths as described in  
10      subsection (b) of section 46a-11c of the 2008 supplement to the general  
11      statutes. In order to facilitate a prompt investigation of the  
12      circumstances surrounding the untimely death of a client under the  
13      care of the Department of Developmental Services, said director may  
14      refer a particular case to the fatality review board prior to the  
15      completion of a review conducted by the Independent Mortality  
16      Review Board pursuant to the provisions of section 17a-210 of the 2008

17 supplement to the general statutes, as amended by this act.

18 (b) On and after July 1, 2008, the Fatality Review Board for Persons  
19 with Disabilities shall consist of the following members: The director  
20 of the Office of Protection and Advocacy for Persons with Disabilities,  
21 the Chief State's Attorney or his designee, one member appointed by  
22 the Governor who shall be a law enforcement professional with a  
23 background in forensic investigations, one member appointed by the  
24 president pro tempore of the Senate who shall be a mental health  
25 professional, one member appointed by the majority leader of the  
26 Senate who shall be a forensic pathologist, one member appointed by  
27 the minority leader of the Senate who shall be a medical professional,  
28 one member appointed by the speaker of the House of Representatives  
29 who shall be a developmental disabilities professional, one member  
30 appointed by the majority leader of the House of Representatives who  
31 shall be a person with disabilities or a family member of a person with  
32 disabilities, and one member appointed by the minority leader of the  
33 House of Representatives who shall be a medical professional. Any  
34 vacancy on the fatality review board shall be filled by the appointing  
35 authority. The Commissioner of Developmental Services or the  
36 commissioner's designee shall serve as a nonvoting liaison to the  
37 fatality review board. The director of the Office of Protection and  
38 Advocacy for Persons with Disabilities shall serve as chairperson of the  
39 fatality review board and may assign agency staff and, within  
40 available appropriations, hire consultants with expertise as necessary  
41 to assist the board in the completion of its investigation. The terms of  
42 the four members of the fatality review board appointed by the  
43 Governor pursuant to Executive Order No. 25 of Governor John G.  
44 Rowland, serving on the effective date of this section, shall expire on  
45 July 1, 2008.

46 (c) In accordance with section 46a-13a of the general statutes, all  
47 relevant state, local or private agencies shall cooperate and assist the  
48 fatality review board in the performance of its statutory duties.

49 (d) On or before February 1, 2009, and annually thereafter, the  
50 fatality review board shall report, in accordance with section 11-4a of  
51 the general statutes, on its investigations to the Governor, and to the  
52 joint standing committees of the General Assembly having cognizance  
53 of matters relating to human services and public health.

54 Sec. 2. Section 17a-210 of the 2008 supplement to the general statutes  
55 is repealed and the following is substituted in lieu thereof (*Effective*  
56 *from passage*):

57 (a) There shall be a Department of Developmental Services. The  
58 Department of Developmental Services, with the advice of a Council  
59 on Mental Retardation, shall be responsible for the planning,  
60 development and administration of complete, comprehensive and  
61 integrated state-wide services for persons with mental retardation and  
62 persons medically diagnosed as having Prader-Willi syndrome. The  
63 Department of Developmental Services shall be under the supervision  
64 of a Commissioner of Developmental Services, who shall be appointed  
65 by the Governor in accordance with the provisions of sections 4-5 to 4-  
66 8, inclusive, of the 2008 supplement to the general statutes. The  
67 Council on Mental Retardation may advise the Governor on the  
68 appointment. The commissioner shall be a person who has  
69 background, training, education or experience in administering  
70 programs for the care, training, education, treatment and custody of  
71 persons with mental retardation. The commissioner shall be  
72 responsible, with the advice of the council, for: (1) Planning and  
73 developing complete, comprehensive and integrated state-wide  
74 services for persons with mental retardation; (2) the implementation  
75 and where appropriate the funding of such services; and (3) the  
76 coordination of the efforts of the Department of Developmental  
77 Services with those of other state departments and agencies, municipal  
78 governments and private agencies concerned with and providing  
79 services for persons with mental retardation. The commissioner shall  
80 be responsible for the administration and operation of the state  
81 training school, state mental retardation regions and all state-operated

82 community-based residential facilities established for the diagnosis,  
83 care and training of persons with mental retardation. The  
84 commissioner shall be responsible for establishing standards,  
85 providing technical assistance and exercising the requisite supervision  
86 of all state-supported residential, day and program support services  
87 for persons with mental retardation and work activity programs  
88 operated pursuant to section 17a-226 of the 2008 supplement to the  
89 general statutes. [The commissioner shall conduct or monitor  
90 investigations into allegations of abuse and neglect and file reports as  
91 requested by state agencies having statutory responsibility for the  
92 conduct and oversight of such investigations. In the event of the death  
93 of a person with mental retardation for whom the department has  
94 direct or oversight responsibility for medical care, the commissioner  
95 shall ensure that a comprehensive and timely review of the events,  
96 overall care, quality of life issues and medical care preceding such  
97 death is conducted by the department and shall, as requested, provide  
98 information and assistance to the Independent Mortality Review Board  
99 established by Executive Order No. 25 of Governor John G. Rowland.  
100 The commissioner shall report to the board and the board shall review  
101 any death: (A) Involving an allegation of abuse or neglect; (B) for  
102 which the Office of Chief Medical Examiner or local medical examiner  
103 has accepted jurisdiction; (C) in which an autopsy was performed; (D)  
104 which was sudden and unexpected; or (E) in which the commissioner's  
105 review raises questions about the appropriateness of care.] The  
106 commissioner shall stimulate research by public and private agencies,  
107 institutions of higher learning and hospitals, in the interest of the  
108 elimination and amelioration of retardation and care and training of  
109 persons with mental retardation.

110 (b) The commissioner shall conduct or monitor investigations into  
111 allegations of abuse and neglect and file reports as requested by state  
112 agencies having statutory responsibility for the conduct and oversight  
113 of such investigations. In the event of the death of a person with  
114 mental retardation for whom the department has direct or oversight  
115 responsibility for medical care, the commissioner shall: (1) Report such

116 death to the Office of Protection and Advocacy for Persons with  
117 Disabilities, and (2) ensure that a comprehensive and timely review of  
118 the events, overall care, quality of life issues and medical care  
119 preceding such death is conducted by the department and shall, as  
120 requested, provide information and assistance to the Independent  
121 Mortality Review Board, established by Executive Order No. 25 of  
122 Governor John G. Rowland. The commissioner shall report to said  
123 board and said board shall review any death: (A) Involving an  
124 allegation of abuse or neglect; (B) for which the Office of Chief Medical  
125 Examiner or local medical examiner has accepted jurisdiction; (C) in  
126 which an autopsy was performed; (D) which was sudden and  
127 unexpected; or (E) in which the commissioner's review raises questions  
128 about the appropriateness of care.

129       [(b)] (c) The commissioner shall be responsible for the development  
130 of criteria as to the eligibility of any person with mental retardation for  
131 residential care in any public or state-supported private institution  
132 and, after considering the recommendation of a properly designated  
133 diagnostic agency, may assign such person to a public or state-  
134 supported private institution. The commissioner may transfer such  
135 persons from one such institution to another when necessary and  
136 desirable for their welfare, provided such person and such person's  
137 parent, conservator, guardian or other legal representative receive  
138 written notice of their right to object to such transfer at least ten days  
139 prior to the proposed transfer of such person from any such institution  
140 or facility. Such prior notice shall not be required when transfers are  
141 made between residential units within the training school or a state  
142 mental retardation region or when necessary to avoid a serious and  
143 immediate threat to the life or physical or mental health of such person  
144 or others residing in such institution or facility. The notice required by  
145 this subsection shall notify the recipient of his or her right to object to  
146 such transfer, except in the case of an emergency transfer as provided  
147 in this subsection, and shall include the name, address and telephone  
148 number of the Office of Protection and Advocacy for Persons with  
149 Disabilities. In the event of an emergency transfer, the notice required

150 by this subsection shall notify the recipient of his or her right to  
151 request a hearing in accordance with subsection [(c)] (d) of this section  
152 and shall be given within ten days following the emergency transfer.  
153 In the event of an objection to the proposed transfer, the commissioner  
154 shall conduct a hearing in accordance with subsection [(c)] (d) of this  
155 section and the transfer shall be stayed pending final disposition of the  
156 hearing, provided no such hearing shall be required if the  
157 commissioner withdraws such proposed transfer.

158 [(c)] (d) Any person with mental retardation who is eighteen years  
159 of age or older and who resides at any institution or facility operated  
160 by the Department of Developmental Services, or the parent, guardian,  
161 conservator or other legal representative of any person with mental  
162 retardation who resides at any such institution or facility, may object to  
163 any transfer of such person from one institution or facility to another  
164 for any reason other than a medical reason or an emergency, or may  
165 request such a transfer. In the event of any such objection or request,  
166 the commissioner shall conduct a hearing on such proposed transfer,  
167 provided no such hearing shall be required if the commissioner  
168 withdraws such proposed transfer. In any such transfer hearing, the  
169 proponent of a transfer shall have the burden of showing, by clear and  
170 convincing evidence, that the proposed transfer is in the best interest  
171 of the resident being considered for transfer and that the facility and  
172 programs to which transfer is proposed (1) are safe and effectively  
173 supervised and monitored, and (2) provide a greater opportunity for  
174 personal development than the resident's present setting. Such hearing  
175 shall be conducted in accordance with the provisions of chapter 54.

176 [(d)] (e) Any person, or the parent, guardian, conservator or other  
177 legal representative of such person, may request a hearing for any final  
178 determination by the department that denies such person eligibility for  
179 programs and services of the department. A request for a hearing shall  
180 be made in writing to the commissioner. Such hearing shall be  
181 conducted in accordance with the provisions of chapter 54.

182       ~~[(e)]~~ (f) Any person with mental retardation, or the parent, guardian,  
183 conservator or other legal representative of such person, may request a  
184 hearing to contest the priority assignment made by the department for  
185 persons seeking residential placement, residential services or  
186 residential support. A request for hearing shall be made, in writing, to  
187 the commissioner. Such hearing shall be conducted in accordance with  
188 the provisions of chapter 54.

189       ~~[(f)]~~ (g) Any person with mental retardation or the parent, guardian,  
190 conservator or other legal representative of such person, may object to  
191 (1) a proposed approval by the department of a program for such  
192 person that includes the use of behavior-modifying medications or  
193 aversive procedures, or (2) a proposed determination of the  
194 department that community placement is inappropriate for such  
195 person placed under the direction of the commissioner. The  
196 department shall provide written notice of any such proposed  
197 approval or determination to the person, or to the parent, guardian,  
198 conservator or other legal representative of such person, at least ten  
199 days prior to making such approval or determination. In the event of  
200 an objection to such proposed approval or determination, the  
201 commissioner shall conduct a hearing in accordance with the  
202 provisions of chapter 54, provided no such hearing shall be required if  
203 the commissioner withdraws such proposed approval or  
204 determination.

205       Sec. 3. Subsection (l) of section 17a-274 of the 2008 supplement to the  
206 general statutes is repealed and the following is substituted in lieu  
207 thereof (*Effective from passage*):

208       (l) In the event that any person placed under the provisions of this  
209 section is recommended for transfer by the Department of  
210 Developmental Services, the department shall proceed as required by  
211 subsection ~~[(c)]~~ (d) of section 17a-210 of the 2008 supplement to the  
212 general statutes, as amended by this act, and shall in addition notify  
213 the probate court which made the placement.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	17a-210
Sec. 3	<i>from passage</i>	17a-274(l)

***Statement of Purpose:***

To enact legislation that incorporates elements of Executive Order No. 25, dated February 8, 2002, which included the establishment of the Fatality Review Board.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*